

REMARKS

Claims 1-15 are pending.

Claims 1-15 are rejected.

Claims 1-4, 6 and 8-14 are amended for reasons of clarity.

In particular, Claim 1 is amended to change the wording of “for retrieving information representative of said maximum bandwidth rate” to “for retrieving information *comprising information* representative of said maximum bandwidth rate”. A support for this amendment can among others be found in paragraphs [0034] and [0103 – 0106] of the application as published (US 2006/0271982 A1). In paragraph [0034] it is mentioned that:

“a specification module 12, intended to determine a size of successive portions of data to be provided to the receiver 20 and a delay between two successive sending steps of those portions, in function of the information INFO; namely, the receiver being able to support up to a maximum bandwidth rate and comprising an input buffer (..)”

And in paragraph [0103-0106] it is mentioned that:

“(..) the server has to take care not to overflow the client. Parameters are given by the client at setup time to ensure this. These parameters are: client max supported bandwidth rate; (..) client input buffer socket buffer size (..) and client keep alive message repeat period (..).”

These citations clearly mention that the information comprises information representative of a maximum bandwidth rate of a data requesting device.

Claims 8-9, 11 and 14 have been amended to use similar wording.

Claim 14 has been further amended to replace the wording of “(..) said specification step includes determining at least one delay between successive steps (..) to “(..) said specification step *comprises determination of* at least one delay between successive steps (..)”; this amendment is among others supported by [0034], where it is mentioned that the specification module determines a size of successive portions and a delay between portions (see the citation of [0034] above).

It is believed that no new matter is added in view of these amendments.

Arguments

Claim rejections – 35 USC § 103

In point 3 of the Office Action (Rejection of Claims 1, 4, 5, 7-11, 14 and 15), the Examiner asserts that “said data requesting device comprising an information retriever for retrieving information comprising information representative of said maximum bandwidth rate” is disclosed by Harumoto (US Patent Pub. No. 2002/0004840 A1), at [0139], parameter S_max. The Applicant respectfully disagrees. In [0138], Harumoto clearly mentions that the parameter S_max indicates “*an amount of data, indicating the total capacity of a terminal’s reception buffer*”. In no way, parameter S_max of Harumoto is information representative of a maximum bandwidth rate being supported by a requesting device as claimed by claim 1. S_max is merely the size of a terminal’s buffer. In addition, this parameter is not sent from Harumoto’s terminal to the server, it is merely used with other parameters by the terminal to determine parameters S_target and T_delay that are transmitted according [0153] to the server. In no way Harumoto discloses or suggests in [0139] or elsewhere, the feature of claim 1 of “said data requesting device comprising an information retriever for retrieving information comprising information representative of said maximum bandwidth rate”.

The Examiner further asserts that “and said sender transmitting to said server via said second network said information, so that said server is able to determine at least one size of successive portions of said required data” is disclosed by Harumoto at [0139], parameter S_target. The Applicants respectfully disagree. Firstly, parameter S_target is in no way equal to “at least one size of successive portions of said required data”. Harumoto’s parameter S_target is a parameter that is determined by the terminal and that expresses the amount of data to be stored in the terminal’s buffer [0139]. In no way, the parameter S_target of Harumoto is related to “a determination of at least one size of successive portions of said required data”. Thus, in no way, Harumoto discloses or suggests in [0139] or elsewhere, the feature of claim 1 of “and said sender transmitting to said server via said second network said information, so that said server is able to determine at least one size of successive portions of said required data”.

The Examiner further asserts that “and at least one delay” is disclosed by Harumoto at [0139], parameter T_delay. The Applicants respectfully disagree. Firstly, parameter T_delay is determined by Harumoto’s terminal, and not by Harumoto’s server. Secondly the parameter T_delay is in no way equal to the “at least one delay” of the invention. In fact, the Examiner’s

citation of claim 1 with regard to “at least one delay” is to be understood in its context, which is given by the wording that follows: “between two successive sending steps of said portions”. According to [0139], Harumoto’s T_delay is a “prebuffering time, i.e delay time to access any specific frame”. Harumoto explains at [0033] what Harumoto understands by “delay time to access any specific frame”: “The parameter “T_delay” is a time taken for the terminal to write the head data to the buffer, read the data and start decoding (that is, a delay time to access a specific frame)”. T_delay of Harumoto is thus related to the processing time of the terminal of received data. In no way, T_delay of Harumoto is related to “at least one delay between two successive sending steps of said portions” as claimed by claim 1.

According to the invention as claimed by claim 1, the data requesting device determines parameters that comprise the data requesting device’s maximum bandwidth rate, see paragraphs [0034] and [0103-0106] of the application as published, see also the citations of these paragraphs in the above remarks section of this document. Harumoto’s parameters S_target, representing a terminal’s buffer size and T_delay, representing a delay time to access a specific frame, can in no way being understood as disclosing a data requesting device’s maximum bandwidth rate.

As a conclusion, the Applicants clearly showed that Harumoto does at least not disclose nor suggest any of the aforementioned features of Claim 1, being :

“said data requesting device comprising an information retriever for retrieving information comprising information representative of said maximum bandwidth rate and said sender transmitting to said server via said second network said information, so that said server is able to determine at least one size of successive portions of said required data at least one delay between two successive sending steps of said portions”.

At least the above mentioned features, which are not disclosed nor suggested by Harumoto, are also not disclosed by Iliadis (US Patent No. 5,995,486). Iliadis discusses a “flow control method and apparatus wherein a gateway or node sends start and stop signals to an upstream gateway or node to prevent overflow of its buffer” (col. 1 lines 9-12). In no way, Iliadis discloses or suggests “said data requesting device comprising an information retriever for retrieving information comprising information representative of said maximum bandwidth rate and said sender transmitting to said server via said second network said information, so that said server is able to determine at least one size of successive portions of said required data at least one delay between two successive sending steps of said portions” as claimed by Claim 1.

At least the above mentioned features are not disclosed nor suggested by Harumoto nor by Iliadis are also not disclosed by Laubach (US Patent No. 5,870,134). Laubach discusses “converting standard one-way cable systems into a two-way system by converting the upstream subscriber’s cable signal and transmitting this same signal as different frequencies in one or more upstream mediums.” (col. 1, lines 8-12). Laubach is rather far from the invention. In no way, Laubach discloses or suggests “said data requesting device comprising an information retriever for retrieving information comprising information representative of said maximum bandwidth rate and said sender transmitting to said server via said second network said information, so that said server is able to determine at least one size of successive portions of said required data at least one delay between two successive sending steps of said portions” as claimed by Claim 1.

At least the above mentioned features are not disclosed nor suggested by Harumoto nor by Iliadis nor by Laubach are also not disclosed by Clisham (US Patent Pub. No. 2004/0168052 A1). Clisham discusses a system and method for communicating content files from a content source over a wireless network to one or more client devices ([0011]). The content files are sent in a higher rate than a presentation rate. Clisham is rather far from the invention. In no way, Clisham discloses or suggests “said data requesting device comprising an information retriever for retrieving information comprising information representative of said maximum bandwidth rate and said sender transmitting to said server via said second network said information, so that said server is able to determine at least one size of successive portions of said required data at least one delay between two successive sending steps of said portions” as claimed by Claim 1.

Thus, none of the cited documents thus disclose nor suggest the above mentioned features of Claim 1.

The skilled in the art would also not find any teaching in a combination of the cited documents.

In view of the preceding, the Applicants submit that Claim 1 stands in condition for allowance and that the rejection of Claim 1 be removed.

Claims 2-7 depend from Claim 1 that stands in condition for allowance. Claims 2-7 add further limitations to patentable Claim 1 and stand therefore also in condition for allowance.

Claim 8 of a data requesting process comprises similar limitations in terms of steps as

patentable Claim 1 of data requesting device. For at least the same reasons as for Claim 1, the Applicants submit that Claim 8 also stands in condition for allowance.

With regard to Claim 9, the Examiner asserts that Harumoto discloses: said capacities comprise a maximum bandwidth rate ([0139] parameter S_{\max}).

The Applicants respectfully disagree. In [0138], Harumoto clearly explains that parameter S_{\max} indicates an amount of data: “*the parameter S_{\max} indicating the total capacity of a terminal’s reception buffer*”. In no way, parameter S_{\max} of Harumoto is a capacity of a data requesting device comprising a maximum bandwidth rate being supported by a data requesting device and in no way Harumoto discloses or suggests that the maximum bandwidth rate of a data requesting device is used by a specification means of a data transmitting device to determine a portion size for successive portions of data that are streamed to said data requesting device, as claimed by claim 9. S_{\max} is merely the size of a buffer. Then, in no way Harumoto discloses or suggests at least the features of claim 9 of

“said receiver receiving from said data requesting device information representative of capacities of said data requesting device, and said specification means determining said portion size in function of said information, said capacities comprising a maximum bandwidth rate being supported by said data requesting device, said specification means determining at least one delay between two successive sending steps of said portions in function of said information and said streamer periodically triggering streaming of said data portions having said portion size to said data requesting device, with a period equal to said delay”.

At least the above mentioned features of claim 9 that are not disclosed nor suggested by Harumoto are also not disclosed by Iliadis. Iliadis discusses a “flow control method and apparatus wherein a gateway or node sends start and stop signals to an upstream gateway or node to prevent overflow of its buffer” (col. 1 lines 9-12). In no way, Iliadis discloses or suggests the aforementioned features as claimed by Claim 9.

At least the above mentioned features are not disclosed nor suggested by Harumoto nor by Iliadis are also not disclosed by Laubach. Laubach discusses “converting standard one-way cable systems into a two-way system by converting the upstream subscriber’s cable signal and transmitting this same signal as different frequencies in one or more upstream mediums.” (col. 1, lines 8-12). Laubach is rather far from the invention. In no way, Laubach discloses or suggests the aforementioned features as claimed by Claim 9.

At least the above mentioned features are not disclosed nor suggested by Harumoto nor by Iliadis nor by Laubach are also not disclosed by Clisham. Clisham discusses a system and method for communicating content files from a content source over a wireless network to one or more client devices ([0011]). The content files are sent in a higher rate than a presentation rate. Clisham is rather far from the invention. In no way, Clisham discloses or suggests the aforementioned features as claimed by Claim 9.

Thus, none of the cited documents thus disclose nor suggest the above mentioned features of Claim 9.

The skilled in the art would also not find any teaching in a combination of the cited documents.

In view of the preceding, the Applicants submit that Claim 9 stands in condition for allowance and that the rejection of Claim 9 be removed.

Claims 10-13 depend from Claim 9 that stands in condition for allowance. Claims 10 and 11 add further limitations to patentable Claim 9 and stand therefore also in condition for allowance.

Claim 14 of a data transmitting process comprises similar limitations in terms of steps as patentable Claim 9 of a data transmitting device. For at least the same reasons as for Claim 1, the Applicants submit that Claim 14 also stands in condition for allowance.

Claim 15 of a computer program product comprises program code instructions for executing the process steps of patentable claim 8. The Applicants therefore submit that Claim 15 also stands in condition for allowance.

In view of the foregoing, Applicant respectfully requests that the rejections of the claims set forth in the Office Action of September 2, 2008 be withdrawn, that pending claims 1-15 be allowed, and that the case proceed to early issuance of Letters Patent in due course.

Respectfully submitted,

Serial No. 10/553,665
Docket No. PF030062

Customer No. 24498

Date: November 29, 2009

By: /Joel M. Fogelson/
Joel M. Fogelson
Reg. No. 43,613
609-734-6809

THOMSON LICENSING LLC
PO BOX 5312
PRINCETON, NJ 08540